IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DONNA ANDERS,   )
)
    Plaintiff,   )
)
-vs-   )   Case No. CIV-21-0159-F
)
WAL-MART STORES, INC., d/b/a   )
WAL-MART SUPERCENTER,   )
STORE #2803,   )
)
    Defendant.   )

ORDER

The court has a duty to determine its own jurisdiction. Tuck v. United Services Automobile Assoc., 859 F.2d 842, 844 (10th Cir. 1998).

This removed case is here on diversity jurisdiction. The notice of removal states that the defendant is "Walmart Inc….identified herein as Wal-Mart Stores Inc., d/b/a Wal-Mart Supercenter, Store #2803…." Doc. no. 1, introductory paragraph. The notice of removal further states that Walmart, Inc., is a Delaware corporation with its principal place of business in Arkansas. Doc. no. 1, ¶ 4. The gist of these statements appears to be that the defendant is mis-identified in the caption and in the petition as "Wal-Mart Stores, Inc. d/b/a Wal-Mart Supercenter Store #2803," and that Walmart, Inc. should be substituted as the defendant. If that is the case, then a motion to substitute the proper defendant (presumably an agreed motion), with a proposed order, is necessary. If Walmart, Inc., is substituted as the defendant, then the information provided in the notice of removal is sufficient to allege diversity of citizenship, as plaintiff is alleged to be a citizen of Oklahoma, and

Walmart, Inc., is a citizen of Delaware and Arkansas. However, absent substitution or some other type of clarification regarding the defendant and its citizenship, the record is not clear with respect to the basis for diversity jurisdiction.

Defendant, as the party invoking this court's jurisdiction, is **DIRECTED** to file, within fourteen days of the date of this order, either: 1) a motion to substitute Walmart, Inc., for the currently named defendant in this action; or 2) a supplement to the notice of removal, clarifying defendant's position regarding the basis for diversity jurisdiction. Failure to comply may result in remand or dismissal of this action without prejudice.

IT IS SO ORDERED this 1st day of March, 2021.

STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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